

STATE'S MOTION TO ADMIT MEDICAL HEARSAY

Hearsay statements made to medical personnel during the course of medical diagnosis and treatment are admissible pursuant to Rule 803(4), Ariz. R. Evid.

The State of Arizona, by and through undersigned counsel, hereby moves, pursuant to Rule 803(4) of the Arizona Rules of Evidence, to admit at trial statements that the victim made to medical personnel during her medical and/or sexual assault examination. This motion is supported by the attached Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Law:

The general rule is that hearsay is not admissible. Rule 802, Arizona Rules of Evidence. But Rule 803(4), Ariz. R. Evid., provides an exception to the general rule for statements made for purposes of medical diagnosis or treatment. That Rule provides:

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

* * *

(4). **Statements for purposes of medical diagnosis or treatment.** Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

The State will seek to elicit testimony from the nurses and/or doctors to whom the victim described her assailant and/or what occurred during her assaults. The State asserts that the victim's statements were made to medical personnel who were in the process of obtaining the victim's medical history and/or condition. Under the circumstances, it was reasonable for the doctors to rely on the statements in order to adequately provide recommendations for treatment. In addition, the victim gave the medical personnel a

description of the perpetrator. In cases involving child victims, such a description may be critical to effective diagnosis and treatment. See *State v. Robinson*, 153 Ariz. 191, 199-200, 735 P.2d 801, 809-810 (1987); see also *State v. Jones*, 188 Ariz. 534, 541, 937 P.2d 1182, 1189 (App. 1996).

Conclusion:

For the reasons stated above, and based on the above-listed authority, the State respectfully requests this Court to grant the State's Motion to Admit the Medical Hearsay Statements of the victim.